IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEA FROM ORDER NO.309 OF 2006
WITH
CIVIL APPLICATION NO.396 OF 2006

Muthumariaman Rahiwashi Sangh ..Appellants.

V/s.

M/s.Friends Builders Consultants
& Anr. ..Respondents.

Mr.R.A.Thorat i/b. Pradeep Kumar Dubey for appellants.

Mr.Rajesh Kachare with S.P.Trivedi i/b. M/s.A.Bharat & Co. for respondent Nos.1 and 2.

CORAM: A.M.KHANWILKAR,J

DATE : JUNE 12, 2006.

P.C. :

1. Heard counsel for the parties. Perused the relevant documents.

2. I see no reason to interfere in this appeal. The grievance of the appellant that although the members of the Appellant are entitled for alternative accommodation they apprehend that they would be dispossessed without following due process of law, does not commend to me. On the other hand, I find substance in the argument of the respondents that present suit(being S.C.Suit No.73 of 2006) was unnecessary. This is so because, the

appellant/plaintiff had already filed writ petition in this court and subsequently, this suit came to be filed. The writ petition was withdrawn in terms of Consent Terms which is already filed in suit being S.C.Suit No.2095 of 2004. Order passed by the Division Bench of this court in Writ Petition No.2249 of 2005 dated 2nd March, 2006 enures in favour of the members of the Sangh. So long as those orders are operating the apprehension now expressed in the present proceedings on behalf of the appellant Sangh is unacceptable. In the circumstances, there is no reason to entertain this appeal merely because the appellants have approached the court for relief of injunction without following due process of law(regarding dispossession). The respondents have rightly pointed out that sufficient precaution is taken with regard to the members of the appellant Sangh in terms of observations in paragraph-3 of the order dated 2nd March, 2006. The members of the appellant, if they so desire, in the concerned matter may approach the appropriate authority and ask for appropriate relief, if aggrieved by any action.

3. In terms of the above said observations, appeal as well as civil application disposed of.